

Before the  
**Federal Communications Commission**

Washington, DC 20554

In the Matter of

Amendment of Part 97 of the Commission's Rules  
To implement WRC-03 Regulations Applicable to  
Requirements for Operator Licenses in  
Amateur Radio Service

WT Docket No. 05-235

RM-10781, RM-10782, RM-10803,  
RM-10784, RM-10785, RM-10786,  
RM-10787, RM-10805, RM-10806,  
RM-10807, RM-10808, RM-10809  
RM-10810, RM-10811, RM-10812  
RM-10868, RM-10869, RM-10870

**Comment in Support of  
Proposed Rulemaking**

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## Executive Summary

I believe the Commission is acting in the best interest of the amateur radio community by Issuing the Notice of Proposed Rulemaking limited to considering the Morse code exam rule, 47 C.F.R. 97.503(a), and declining to propose any other changes to the amateur radio service licensing or operation privileges in the proceeding.<sup>1</sup> See paragraph 5

I support the Commissions proposal to amend the amateur service rules to eliminate the requirement that individuals pass a telegraphy examination in order to qualify for any amateur radio operator license. The Morse exam rule, 47 C.F.R. 97.503(a), is creating serious regulatory issues for the Commission that can only be corrected by deleting the requirement for all classes of Amateur Radio licenses. Because of prior Commission decisions,<sup>2 3</sup> and as matter of law<sup>4</sup>; the Commission should immediately delete 47 C.F.R. §97.503(a) from its rules. See paragraph 12.

I request the Commission to delete the Morse code exam for all classes of amateur licenses. See paragraph 14.

I request the Commission grant Technician Class licensees the same operating privileges as the Technicians Plus Class licensees. See paragraph 20.

I support six (6) Petitions for Rulemaking that request the Commission to delete the Morse code test rule, 47 C.F.R. 97.503(a). See paragraph 45.

I oppose the eleven Petitions for Rulemaking to amend the Commission's Amateur Radio Services rules. All of the Petitions request the Commission to continue, amend, or expand the use of Morse code exams<sup>5</sup> as a requirement for an Amateur Radio license. See paragraph 47.

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<sup>1</sup> See RM-10786, \_\_\_\_\_Reply and Exhibit, 10/6/2003, Leroy Klose III, see paragraph 14, <http://www.fcc.gov/>, Commission's Electronic Comment Filing System (ECFS).

<sup>2</sup> **1990 Codeless Technician Decision**, Amendment of Part 97 of the Commission's Rules Concerning the Establishment of a Codeless Class of Amateur Operator License, **Report and Order**, PR Docket No. 90-55, 5 FCC Rcd 7631 (1990), adopted December 13, 1990, released December 27, 1990, page 7631 to 7637.

<sup>3</sup> **1999 License Restructuring Decision**, 1998 Biennial Regulatory Review – Amendment of Part 97 of the Commissions' Amateur Service Rules, **Report and Order**, WT Docket No. 98-143, 15 FCC 315, adopted December 1, 1998, release January 15, 1999.

<sup>4</sup> 5 U.S.C. §706(2)(A), Scope of Review, The reviewing court shall \* (2) hold unlawful and set aside agency action, findings, and conclusions found to be - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; \*.

<sup>5</sup> 47 C.F.R. 97.503(a) and/or proposed amendments.

## **The Commission Should Delete or Amend All Rules Based on the Morse code exam Rule 47 CFR 97.503(a).**

1. The Technician and Technician Plus Class operators have both passed the same written exam, however the Technician Plus Class operators are allowed by the Commission's rules to operate on four (4) frequency bands below 30 MHz based on the operator passing the Morse code test.
2. Technician Plus operators are allowed to transmit phone emissions J3E and R3E on the ten-meter band.
3. Technicians Class operators are allowed to transmit CW above 30MHz.
4. The Commission should delete or amend all amateur radio service licensing or operation privileges based on the Morse code test.

## **The Commission is Correct to Decide the Morse Code Exam Matter in a Separate Proceeding**

5. Amateur Radio community has petitioned and requested that the Commission delete the Morse code exam rule, 47 C.F.R. 97.503(a), for decades.
6. The Commission has denied the petitions on grounds that the Amateur Radio community had not reached a consensus, or could not be deleted because of the mandatory requirement imposed by former ITU rule S25.5.
7. The Amateur Radio community will never reach a consensus on the Morse code exam matter, as both sides are polarized and no new arguments have been advanced for years.
8. The Commission is correct to resolve Morse code matter by holding a separate Notice of Proposed Rulemaking to delete the Morse code exam for all classes of Amateur Radio licenses.

9. A separate proceeding will allow other Petitions to propose changes to the license classes, authorized frequency bands, authorized emission types, emissions standards, and transmitter power standards, that the Commission can consider on their own merit **without interference of the endless Morse code debate.**
10. A separate proceeding will allow for an extended and comprehensive review period for additional individuals and organizations to draft and make other proposals.
11. This will reduce or eliminate the endless Morse code exam debate from distracting from the other matters important to Amateur Radio licensees.

### **Delete Morse Code Exam For All Classes Of Amateur Licenses.**

12. During the comment period the Petitions for Rulemaking, the percentage of Comments<sup>6</sup> supporting the deletion of the Morse code exam for all licenses classes for the petitions filed by No Code International<sup>7</sup>, RM-10786 was 66%; and National Conference of Volunteer Examiner Coordinators<sup>8</sup>, RM-10787 was 54%, and the combined total was 59%.
13. The Morse code exam rule, 47 C.F.R. 97.503(a), is creating serious regulatory issues for the Commission that can only be corrected by deleting the requirements for all classes of Amateur Radio licenses.

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<sup>6</sup> RM-10786, Reply and Exhibit, 10/6/2003, Leroy Klose III, see paragraph 14, <http://www.fcc.gov/>, Commission's Electronic Comment Filing System (ECFS).

<sup>7</sup> RM-10786, Petition for Rulemaking, 8/13/2003, No Code International, <http://www.fcc.gov/>, Commission's Electronic Comment Filing System (ECFS).

<sup>8</sup> RM-10787, Petition for Rulemaking, 8/1/2003, National Conference of Volunteer Examiner Coordinators, <http://www.fcc.gov/>, Commission's Electronic Comment Filing System (ECFS).

14. Because of prior Commission decisions,<sup>9 10</sup> and as matter of law<sup>11</sup>; the Commission should delete 47

C.F.R. §97.503(a) from its rules. To wit, the Morse code exam rule, 47 C.F.R. 97.503(a):

- ☐ is unnecessary;
- ☐ is not in the public interest;
- ☐ is no longer necessary for government, military, public service, and emergency communications;
- ☐ violates applicants' and licensees' "due process of law" rights (see paragraph 21);
- ☐ is discriminatory, within the meaning of the legal definition (see paragraph 30);
- ☐ is not in conformity with the Federal statutes, 5 U.S.C. §706(2)(A) that require a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be - arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; [or] contrary to constitutional right, power, privilege, or immunity";
- ☐ will require medical waiver certificates to comply with the Americans with Disabilities Act (see paragraph 34);
- ☐ produces radio telegraph operators that are no longer needed;
- ☐ does not insure proper operation of a station;
- ☐ is not necessarily indicative of an individual's ability to contribute to the advancement of the radio art<sup>12</sup>;
- ☐ does not further the purpose of the amateur service<sup>13</sup>;
- ☐ does not serve a regulatory purpose<sup>14</sup>;
- ☐ does not attract technically inclined persons, particularly the youth of our country, and encourage them to learn and to prepare themselves in the areas where the United States needs expertise<sup>15</sup>;
- ☐ is not an indication of the examinee's good character, high intelligence, cooperative demeanor, or willingness to comply with the Commission's rules<sup>16</sup>;
- ☐ is no more or no less than proof of the examinee's ability to send and receive text in Morse code at a specific rate<sup>17</sup>;
- ☐ does not comport with the basis and purpose of the service<sup>18</sup>; and

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<sup>9</sup> **1990 Codeless Technician Decision**, Amendment of Part 97 of the Commission's Rules Concerning the Establishment of a Codeless Class of Amateur Operator License, **Report and Order**, PR Docket No. 90-55, 5 FCC Rcd 7631 (1990), adopted December 13, 1990, released December 27, 1990, page 7631 to 7637.

<sup>10</sup> **1999 License Restructuring Decision**, 1998 Biennial Regulatory Review – Amendment of Part 97 of the Commissions' Amateur Service Rules, **Report and Order**, WT Docket No. 98-143, FCC 99-143 (1999), adopted December 1, 1998, release January 15, 1999.

<sup>11</sup> 5 U.S.C. §706(2)(A), Scope of Review, The reviewing court shall \* (2) hold unlawful and set aside agency action, findings, and conclusions found to be - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; \*.

<sup>12</sup> **1999 License Restructuring Decision**, paragraph 25.

<sup>13</sup> **1999 License Restructuring Decision**, paragraph 25.

<sup>14</sup> **1999 License Restructuring Decision**, paragraph 25.

<sup>15</sup> **1999 License Restructuring Decision**, paragraph 30.

<sup>16</sup> **1999 License Restructuring Decision**, paragraph 30; and **1990 Codeless Technician Decision**, note 30.

<sup>17</sup> **1999 License Restructuring Decision**, paragraph 30; and **1990 Codeless Technician Decision**, note 30.

- ❑ does not keep amateur radio operators ready to be of service in an emergency<sup>19</sup>;
- ❑ is not a significant factor in determining an individual's ability to provide or be prepared to provide emergency communications<sup>20</sup>.

15. Clearly, it is unnecessary, arbitrary, capricious, and ludicrous to require manual Morse code proficiency to operate emission modes other than CW emissions. It is even unnecessary to operate CW emissions, since computers can do it automatically.
16. The Commission should amend Part 97 of the Amateur Service rules to delete 47 C.F.R. §97.503(a), and revise other rules affected by the deletion of 47 C.F.R. §97.503(a), by adopting the proposed amendments to Part 97 provided in attached Appendix A of this Comment.

## **Grant Technician Class Licensees the Same Operating Privileges as the Technician Plus Class Licensees.**

17. The Commission currently allows Technician Class licensees, without passing a Morse code exam, to operate Morse code emission above 30mhz, however denies them that privileges below 30mhz. This is an unnecessary rule.
18. The Technician Class license combines two groups of licensees with two different set operation privileges based on whether or not the licensees passed a Morse code exam. Even though the licensees have all passed the same or equivalent written exams. This is an unnecessary rule.
19. It's now time for the Commission to completely eliminate all unnecessary discrimination in granting operation privileges on a Morse code exam.
20. Further, the Commission should authorize the Technician Class the same privileges as the Technician Plus Class, by adopting the proposed amendments to Part 97 provided in attached Appendix B of this Comment.

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<sup>18</sup> *1999 License Restructuring Decision*, paragraph 30.

<sup>19</sup> *1999 License Restructuring Decision*, paragraph 31.

<sup>20</sup> *1999 License Restructuring Decision*, paragraph 31.

## Due Process of Law Rights

21. The Commission regulates the Amateur Radio service and permits a citizen to operate on Amateur Radio band frequencies by the issuance of license. Black's Law Dictionary, 6th Edition, defines a **license** as:

The permission by competent authority to do an act which, without such permission, would be illegal, a trespass, a tort, or otherwise not allowed. *People v. Henderson*, 391 Mich. 612; 218 N.W.2d 2,4.

A permit, granted by an appropriate governmental body, generally for a consideration, to a person, firm or corporation to pursue some occupation or to carry on some business subject to regulations under **police power**. A license is not a contract between the state and the licensee, but is a mere personal permit. *Rosenblatt v. California State Board of Pharmacy*, 69 Cal. App.2d 69; 158 P.2s 199, 203

Neither is it property or a property right. *American States Water Service Co of California v. Johnson*, 31 Cal.App.2d 606; 88 P.2d 770, 774

22. The Amateur Radio license is issued under the authority of the government's **police power** and subject to Constitutional limitations. Black's Law Dictionary, 6th Edition, defines a **police powers** as:

An authority conferred by the American constitutional system in the Tenth Amendment, U.S. Constitution, upon the individual states, and, in turn, delegated to local government, through which they are enabled to establish a special department of police; adopt such laws and regulations as tend to prevent the commission of fraud and crime, and secure generally the comfort, safety, morals, health, and property of its citizens by preserving the public order, preventing a conflict of rights in the common intercourse of the citizens, insuring to each an uninterrupted enjoyment of all privileges conferred upon him or her by general laws.

The power of State to place restraints on the personal freedom and property rights of persons for the protection of the public safety, health, and morals or the promotion of the public convenience and general prosperity. The police power is subject to limitations of the federal and State constitutions, and especially to the requirement of **due process**. **Police power** is the exercise of sovereign right of government to promote order, safety, security, health, morals and general welfare **within constitutional limits** and is an essential attribute of government. *Marshall v. Kansas City, Mo.*, 355 S.W.2d 877, 883.

23. Police powers are subject to the **due process of law** limitations. Black's Law Dictionary, 6th Edition, defines a **due process rights** as:

All rights which are of such fundamental importance as to require compliance with **due process** standards of fairness and justice. Procedural and substantive rights of citizens against government action that threaten the denial of life, liberty, or property.

and due process of law as:

The concept of "due process of law" as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought. *U. S. v. Smith*, D.C.Iowa, 249 F.Supp. 515, 516.



24. The Commission has the authority to regulate the Amateur Radio service; but with the limitation, that its rules “shall have a reasonable and substantial relation to the object sought.”
25. The Commission acknowledges its limitation, when Commissioner Harold W. Furchtgott-Roth stated that the 1998 Biennial Review requires the Commission review its regulations to "determine whether any such regulation is no longer in the public interest" and to "repeal or modify" those regulations not meeting the requirement.
26. The Commission stated in the *License Restructuring Decision* that (emphasis added) “because the amateur service is fundamentally a technical service, the emphasis on Morse code proficiency as a licensing requirement does not comport with the basis and purpose of the service.”
27. The Commission additionally stated that (emphasis added) “we note that one of the fundamental purposes underlying our Part 97 rules is to accommodate the amateur radio operator's proven ability to contribute to the advancement of the radio art. We believe that an individual's ability to demonstrate increased Morse code proficiency is not necessarily indicative of that individual's ability to contribute to the advancement of the radio art. As a result, we find that such a license qualification rule is not in furtherance of the purpose of the amateur service and we do not believe that it continues to serve a regulatory purpose.”
28. Clearly, it is ludicrous, unnecessary, arbitrary, and capricious to require manual Morse code proficiency to operate emission modes other than CW emissions. It is even unnecessary to operate CW emissions, since computers can do it automatically.
29. The Commission’s Morse code exam, 47 C.F.R. §97.503(a), violates applicants “due process of law” rights because the rule:
- ❑ does not serve a regulatory purpose.
  - ❑ unnecessary, arbitrary, and capricious to require manual Morse code proficiency to operate emission modes other than CW emissions.

## Discrimination Issues

30. The Morse code exam, 47 C.F.R. §97.503(a), is a form of discrimination.

31. Black's Law Dictionary, 6th Edition, defines a **discrimination** as:

In constitutional law, the effect of a statute or established practice which confers particular privileges on a class arbitrarily selected from a large number of persons, all of whom stand in the same relation to the privileges granted and between whom and those not favored **no reasonable distinction can be found**.

A failure to treat all persons equally where **no reasonable distinction can be found** between those favored and those not favored. **Baker v. California Land Title Co.**, D.C.Cal., F.Supp. 235, 238, 239.

32. The allocation of frequency privileges on the HF bands by the use of a Morse code proficiency exam is not a reasonable distinction for such an allocation. The use of Morse code exam is discriminatory.

33. The Morse code exam is discriminatory, within the meaning of the legal definition given above.

## Medical Waiver of Morse Code Exams

34. In *1990 Medical Waiver Decision*, the Commission amend<sup>21</sup> Part 97 of its rules "to exempt from higher speed telegraphy examinations persons who, because of severe handicap, are incapable of passing those examinations."

35. In that decision, the Commission adopted Section 97.505(a)(10) that provides examination credit for the 20 wpm Morse code exam, Element 1(C), to licensees who had credit for a 5 or 13 wpm Morse code exam, Element 1(A) or 1(B), upon completion of physician's certification of a handicap that would prevent the applicant from passing the required Morse code exam.

36. The Commission left unanswered the question: why was the 13 & 20 wpm Morse code exam unnecessary for licensees with a medical waiver, and necessary for all other licensees?

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<sup>21</sup> *1990 Medical Waiver Decision*, Amendment of the Amateur radio Service Rules to Make the Service More Accessible to Persons with Handicaps, Report and Order, PR Docket #90-356, FCC 90-414, 5 FCC Rcd 26 (1990), adopted December 13, 1990, released December 27, 1990, page 7626 to 7630.

37. W5YI website<sup>22</sup> reports how medical waiver issue eventually led to the *1999 License Restructuring*

*Decision.*

Q: How did the restructuring of the Amateur Service come about? What started it all off?

A: In a nutshell, it was primarily the work of three organizations, the ARRL (*American Radio Relay League*), the NCVEC (*National Conference of Volunteer-Examiner Coordinators - VECs*) and the FCC (*Federal Communications Commission*).

It is a long story, but basically the American Radio Relay League believed that the high speed telegraphy exam waiver process needed to be tightened up. In September of 1997 the ARRL submitted a *Petition for Rulemaking* (assigned RM-9196) requesting that disabled or handicapped applicants presenting a *Physician's Certification of Disability* for high speed code exam credit be required to at least try to pass the CW exam in a normal way. They also wanted VECs to be required to request and review medical records from the certifying doctor before a waiver was approved.

Citing privacy concerns, the FCC told the ARRL (in March 1998) that they were considering lowering the Morse code exam speed to 5 words-per-minute for everyone as a way to eliminate the need to grant waivers of the 13 and 20 wpm Morse exams. The League came away from that meeting believing that amateur radio could be headed for a maximum Morse exam speed of 5 wpm.

In July 1998, the ARRL directors voted (9 to 6) to suggest restructuring of the Amateur Service. Their version would contain 4 license classes (which they initially called A., B, C and D) and 2 CW speeds: 5 and 12 wpm. The League also wanted Novice and Tech Plus operators automatically upgraded to General Class privileges without examination. And General, Advanced and Extra Class operators would obtain additional telephony spectrum by the "refarming" of the Novice band which was no longer needed for its original purpose.

The FCC issued a *Notice of Proposed Rulemaking* a month later (August 10, 1998) essentially proposing the ARRL plan. They also asked for comment on the relevance of the existing telegraphy and written examinations. The Commission received and considered over 2,200 comments from the amateur community.

In their October 1998 formal comments, the National Conference of VECs proposed to the Commission that the Amateur Service should and could be streamlined even further. It was their belief that the Advanced and Extra classes could be combined since the knowledge and skill required and spectrum authorized was essentially the same.

They suggested three license classes -- Technician, General and Extra -- and preferably no exam code speed requirement at all. But recognizing the international requirement in the *Radio Regulations*, the NCVEC agreed that the absolute minimum examination speed - or 5 wpm - should be adopted.

NCVEC believed that upgrading amateurs should indeed take the required written examinations and that there should be no change in the operating frequencies for the various license classes. NCVEC also suggested that the maintenance of the syllabus (topics) of the written examinations be determined by the VEC's Question Pool Committee (QPC.)

On December 30, 1999, the FCC adopted the restructuring plan as essentially presented by the NCVEC.

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<sup>22</sup> W5YI web site, <http://www.w5yi.org>, see "News Bulletins", "Q & A - How did the restructuring of the Amateur Service come about? What started it all off?"

38. In his 1999 License Restructuring Decision comments<sup>23</sup>, Patrick Tice, WA0TDA, of Handi-Hams organization stated the following (emphasis added):

Removal of code testing requirement would obviate the need for waiver, and the entire concept of disability waive could be put to rest. As it now stands, FCC rules mandate fast code testing for General and Extra Class licenses. Our feeling is that, **should a person with a disability challenge this requirement as irrelevant and arbitrary in light of the movement of all other HF service away from code, it would be impossible to defend fast code testing and the requirement would be vacated.**

In other areas of society, irrelevant testing material and procedures have been stricken down as illegal time and time again. For example, municipal fire departments cannot exclude applicants on the basis of their inability to perform push-ups, because push-ups are not real-world skill in fighting fires. Similarly, if Morse code is no longer a real-world requirement for HF operation, we should no longer be testing for it.

While many of us in the CHHS sympathize with those who would retain code testing, the fact of the matter is that such testing excludes persons with disabilities who could otherwise be able H.F. operators, and does so on the basis of what has become a fully arbitrary requirement in the light of current trends in technology.

39. The ITU rule S25.5 amendment at WRC 2003, will inevitably require the Commission to adopt rules to provide Medical Waiver Certificates, unless it deletes the Morse code exam for all classes of licenses.

### **Issue Immediate Order to Delete Morse Code Exam**

40. The Commission should act immediately to delete its Morse code exam rule,  
47 C.F.R. § 97.503(a), by an order without further notice and public input.

41. In its Petition for Rulemaking<sup>24</sup>, RM-10786, No Code International discussed how an expedited order could be issued.

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<sup>23</sup> WT Docket 98-143, 11/06/98, Patrick W. Tice, see fifth bullet under "Detail Rationale" heading, <http://www.fcc.gov/>, Commission's Electronic Comment Filing System (ECFS).

<sup>24</sup> RM-10786, Petition for Rulemaking, 8/13/2003, No Code International, page 13, paragraph 37 through 48. <http://www.fcc.gov/>, Commission's Electronic Comment Filing System (ECFS).

42. Further, the Commission should consider if the Morse code exam rule, 47 C.F.R. 97.503(a), is: (1) in conformity with 5 U.S.C. 706(2)(A); (2) meets “due process of law” requirements; or (3) is not discriminatory (within the legal definition). If any one or all present issues to the Commission, they would be justified in issuing an immediate order or declaratory ruling<sup>25</sup>.
43. Further, the Commission should consider whether the Morse code exam rule, 47 C.F.R. 97.503(a), even if only retained for the Extra class license, would: (1) raise ADA issues; and (2) require the Commission to reinstate the Medical Wavier Certificates.
44. The Commission should adopt the proposed amendments to Part 97 immediately by an expedited procedure pursuant to 5 U.S.C. §553(b)(3)(B)<sup>26</sup>, 5 U.S.C. §553(d)(1) & (3)<sup>27</sup>, 47 C.F.R §303(r)<sup>28</sup> and 47 C.F.R §1.3<sup>29</sup>.

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<sup>25</sup> 47 CFR §1.2 Declaratory rulings. The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.

<sup>26</sup> 5 U.S.C. §553(b)(3)(B) provides: “General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include - either the terms or substance of the proposed rule or a description of the subjects and issues involved. Except when notice or hearing is required by statute, this subsection does not apply - when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

<sup>27</sup> 5 U.S.C. §553(d)(1) & (3) provides: “The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except - a substantive rule which grants or recognizes an exemption or relieves a restriction; or as otherwise provided by the agency for good cause found and published with the rule.”

<sup>28</sup> 47 C.F.R. §303(r) provides: “Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest, or necessity requires, shall - Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this chapter, or any international radio or wire communications treaty or convention, or regulations annexed thereto, including any treaty or convention insofar as it relates to the use of radio, to which the United States is or may hereafter become a party.”

<sup>29</sup> 47 C.F.R. §1.3 provides: “The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”

## **Grant Petitions for Rulemaking that Delete Morse Code Exams**

45. If the Commission finds it necessary, issue a Notice of Proposed Rulemaking (NPRM) in regards to the Petitions for Rule Making filed by No Code International, RM-10786, and National Conference of Volunteer Examiners Coordinators, RM-10787 & RM-10870. The Appendixes of both of these Petitions contain proposed rule revisions to Part 97 of the Commissions rules.
46. The Commission should include the Petitions of P. V.Coppola, RM-10782; Kiernan K. Holliday, RM-10783; and Eric R. Ward, RM-10785. These three Petitions also request the deletion the Morse code exams for all classes of Amateur Radio licenses.

## **Deny Petitions for Rulemaking that Continue the Morse Code Exams**

47. The Commission should deny the Petition for Rulemaking filed by Peter M. Beauregard, RM-10781; Dale E. Reich, RM-10784; Charles L. Young, RM-10805; Frank W. Napurano, RM-10806; Robert G. Rightsell and Harry A. M. Kholer, RM-10807; Joseph Speroni, RM-10808; Puerto Rico Amateur Radio League, RM-10809; James Roux, RM-10810; FISTS CW Club, RM-10811; American Radio Relay League, RM-10867; Radio Amateur Foundation, RM-10868; and Ronald D. Lowrance, RM-10869.
48. All these Petitions continue Morse code exam, 49 C.F.R. 97.503(a), in some form as an examination element for an Amateur Radio license.
49. The Petition for Rulemaking filed by Peter M. Beauregard, RM-10781; Dale E. Reich, RM-10784; Charles L. Young, RM-10805; Frank W. Napurano, RM-10806; Puerto Rico Amateur Radio League, RM-10809; James Roux, RM-10810; FISTS CW Club, RM-10811; American Radio Relay League, RM-10867; and Ronald D. Lowrance, RM-10869 continue the Morse code exam, as a pass/fail element, for the Extra Class license.
50. Petitions filed by James Roux, RM-10810; FISTS CW Club, RM-10811; and Ronald D. Lowrance, RM-10869 increase the Morse code exam speed to 15, 12 and 13 wpm respectively for the Extra Class license.

51. Petitions filed by Peter M. Beauregard, RM-10781; Charles L. Young, RM-10805; Frank W. Napurano, RM-10806; FISTS CW Club, RM-10811; and Ronald D. Lowrance, RM-10869 continue the 5 wpm Morse code exam General Class license.
52. Petitions filed by Frank W. Napurano, RM-10806, continue the 5-wpm Morse code exam for Technician Class license.
53. Petitions filed by Robert G. Rightsell and Harry A. M. Kholer, RM-10807; continue the Morse code exam, as points for a Technician, General and Extra Class licenses.
54. Petitions filed by Joseph Speroni, RM-10808; request a Morse code exam as a license endorsement for CW operations.

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Respectfully submitted

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## **Appendix A – Commission’s Proposed Rules Changes**

Proposed changes to Part 97 of Chapter I of Title 47 of the Code of Federal Regulations to delete the Morse code exam, and to authorize Technician Class the same privileges as Technician Plus Class.

1. Section 97.501 is amended by revising paragraphs (a) and (b) to read as follows.

### **§97.501 Qualifying for an amateur operator license.**

\* \* \* \* \*

(a) Amateur Extra Class operator: Elements 2, 3, and 4;

(b) General Class operator: Elements 2, and 3;

\* \* \* \* \*

2. Section 97.503 is amended by removing paragraph (a), redesignate paragraph (b) as an undesignated introductory paragraph, and redesignate paragraph (b)(1)-(3) as (a)-(c), respectively.

### **§97.503 Element standards.**

A written examination must be such as to prove that the examinee possesses the operational and technical qualifications required to perform properly the duties of an amateur service licensee. Each written examination must be comprised of a question set as follows:

(a) Element 2: 35 questions concerning the privileges of a Technician Class operator license.

The minimum passing score is 26 questions answered correctly.

(2) Element 3: 35 questions concerning the privileges of a General Class operator license. The

minimum passing score is 26 questions answered correctly.

(3) Element 4: 50 questions concerning the privileges of an Amateur Extra Class operator

license. The minimum passing score is 37 questions answered correctly.

3. Section 97.505 is amended by removing paragraphs (a)(5), (a)(7)-(9); redesignating paragraphs (a)(6) as (a)(5); and revising paragraphs (a)(1)-(4) to read as follows: .

### **§97.505 Element credit.**

(a) \* \* \* \* \*

(1) An unexpired (or expired but within the grace period for renewal) FCC-granted Advanced Class operator license grant: Elements 2, and 3.

(2) An unexpired (or expired but within the grace period for renewal) FCC-granted General Class operator license grant: Elements 2, and 3.



- (3) An unexpired (or expired but within the grace period for renewal) FCC-granted Technician or Technician Plus Class operator (including a Technician Class operator license granted before February 14, 1991) license grant: Elements 2.
- (4) An expired FCC-issued Technician Class operator license document granted before March 21, 1987: Element 3.

\* \* \* \* \*

- 4. Section 97.507 is amended by removing paragraph (d), and revising paragraphs (a) and (c) to read as follows:

**§97.507 Preparing an examination.**

- (a) Each written question set administered to an examinee must be prepared by a VE holding an Amateur Extra Class operator license. A written question set may also be prepared for the following elements by a VE holding an operator license of the class indicated:

- (1) Element 3: Advanced Class operator.
- (2) Elements 2: Advanced, General, Technician Plus, or Technician Class operators.

- (b) \* \* \* \* \*

- (c) Each written question set administered to an examinee for an amateur operator license must be prepared, or obtained from a supplier, by the administering VEs according to instructions from the coordinating VEC.

- 5. Section 97.509 is amended by removing paragraph (g); and redesignating paragraphs (h) through (m) as paragraphs (g) through (l) respectively, and revising paragraph (f) to read as follows:

**§97.509 Administering VE requirements.**

\* \* \* \* \*

- (f) No examination that has been compromised shall be administered to any examinee. The same question set may not be re-administered to the same examinee.

\* \* \* \* \*

## Appendix B – Additional Proposed Rules Changes

Proposed changes to Part 97 of Chapter I of Title 47 of the Code of Federal Regulations to authorize Technician Class the same privileges as Technician Plus Class.

1. Section 97.301 is amended by revising paragraph (e) to read as follows. The frequency tables in paragraphs 97.301(a), (b), (c), (d) and (e) remain unchanged.

### **§97.301 Authorized frequency bands.**

\* \* \* \* \*

- (e) For a station having a control operator who has been granted an operator license of Novice, Technician Plus, or Technician Class:

Wavelength band	ITU Region 1	ITU Region 2	ITU Region 3	Sharing requirements, see §97.303, paragraph:
HF	MHz			
80 m	3.675-3.725	3.675-3.725	3.675-3.725	(a)
40 m	7.050-7.075	7.10-7.15	7.050-7.075	(a)
15 m	21.10-21.20	21.10-21.20	21.10-21.20	
10 m	28.1-28.5	28.1-28.5	28.1-28.5	
VHF	MHz			
1.25 m	--	222-225	--	(a)
UHF	MHz			
23 cm	1270-1295	1270-1295	1270-1295	(h), (i)

2. Section 97.307 is amended by revising paragraphs (f)(9) and (f)(10) to read as follows:

### **§97.307 Emission standards.**

\* \* \* \* \*

- (f) \* \* \* \* \*

- (9) A station having a control operator holding a Novice, Technician Plus, or Technician Class operator license may only transmit a CW emission using the international Morse code.
- (10) A station having a control operator holding a Novice, Technician Plus, or a Technician Class operator license may only transmit a CW emission using the international Morse code or phone emissions J3E and R3E.

\* \* \* \* \*

3. Section 97.313 is amended by revising paragraph (c)(2) to read as follows:

**§97.313 Transmitter power standards.**

\* \* \* \* \*

(c) \* \* \* \* \*

- (2) The 28.1-28.5 MHz segment when the control operator is a Novice, Technician Plus, or Technician Class operator; or

\* \* \* \* \*

7. Section 97.507 is amended by removing paragraph (d), and revising paragraphs (a) and (c) to read as follows:

**§97.507 Preparing an examination.**

- (a) Each written question set administered to an examinee must be prepared by a VE holding an Amateur Extra Class operator license. A written question set may also be prepared for the following elements by a VE holding an operator license of the class indicated:

- (1) Element 3: Advanced Class operator.
- (2) Elements 2: Advanced, General, Technician Plus, or Technician Class operators.

(b) \* \* \* \* \*

- (c) Each written question set administered to an examinee for an amateur operator license must be prepared, or obtained from a supplier, by the administering VEs according to instructions from the coordinating VEC.